

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LORENZO GUARINO,  
Plaintiff

V.

R.W. GRANGER & SONS, INC.,  
and SCAVONE C&M CONSTRUCTION  
CO., INC.,  
Defendants

and

R.W. GRANGER AND SONS, INC.,  
Defendant/Third-Party Plaintiff

V.

FENESTRATION ARCHITECTURAL  
PRODUCTS, INC.,  
Third-Party Defendant.

CIVIL NO. 04-10246

**DEFENDANT/THIRD PARTY PLAINTIFF'S STATUS REPORT**

**1. DEFENDANT/THIRD PARTY PLAINTIFF'S SUMMARY OF EXPECTED EVIDENCE:**

**LIABILITY:** The defend/third-party plaintiff expects the evidence to show that it was the general contractor for a construction project at the Old Rochester High School, Mattapoisett Massachusetts. The plaintiff was an employee of third-party defendant Fenestration Architectural Products and is alleged to have been injured while working on that job site on February 5, 2002. Fenestration contracted with the defend and to perform certain construction concerning the installation of glass products and supports for those products. Third-party defendant Scavone C&M Construction Company contracted with the defendant to perform certain concrete work which involved the use of wire mesh reinforcing material. The plaintiff is alleged to have been injured when, in the course of his employment he tripped and fell. The defendant expects the evidence to show that Scavone was negligent in the performance of its duties and was negligent in the placement and disposal of the wire mesh in

question. The defendant expects the evidence to show that the plaintiff was negligent in the performance of his duties as an employee of Fenestration.

Both Scavone and Fenestration entered into written contracts with the defendant and which contained valid and enforceable indemnification agreements. The defendant expects the evidence to show that both third-party defendants were negligent triggering a duty to indemnify the defendant.

**DAMAGES:** The defendant adopts and incorporates by reference Scavone's statements as to the plaintiffs claimed damages.

2. **FACTS ESTABLISHED:** The defendant adopts and incorporates by reference plaintiff's statements as to established facts.

3. **CONTESTED ISSUES OF FACT:** The defendant expects that there will be contested issues of fact regarding both liability and damages as well as apportionment of damages among the defendants.

4. **JURISDICTIONAL QUESTIONS:** None anticipated.

5. **PENDING MOTIONS:** None.

6. **ISSUES OF LAW:** The defendant expects the third-party defendant Fenestration to contest its contractual indemnification claim. It expects Fenestration to contest the validity and interpretation of the indemnity agreement as incorporated into the contract entered into by both parties.

7. **REQUESTED AMENDMENTS TO PLEADINGS:** None Anticipated.

8. **ADDITIONAL MATTERS THAT WILL AID IN THE DISPOSITION:** The defendant adopts and incorporates by reference the statement of plaintiff regarding additional matters.

9. **PROBABLE LENGTH OF TRIAL:** One week.

10. **EXPECTED WITNESSES:** The defend and adopts and incorporates by reference those witnesses listed by the other parties.

11. **EXPERT WITNESSES:** The defend and adopts and incorporates by reference those expert witnesses listed by the other parties. The defendant does not stipulate by this pleading the admissibility of any expert witness testimony or qualifications of any expert witnesses.

By its attorney,

---

Patrick M. McCormack  
B.B.O. No. 546194  
Law Offices of Jacqueline L. Allen  
One Liberty Square, 12<sup>th</sup> Floor

Boston, MA 02109

617-878-4614

### **CERTIFICATE OF SERVICE**

I, Patrick M. McCormack, attorney for the Defendant/Third Party Plaintiff, R.W. Granger & Sons, Inc., in the above-entitled action, hereby certify that on the 5th day of April, 2007, I mailed a copy of the within Status Report, postage prepaid, to:

Frank C. Corso, Esquire  
Sarrouf Corso, LLP  
95 Commercial Wharf  
Boston, MA 02110

Mark B. Lavoie, Esquire  
McDonough, Hacking & Lavoie, LLC  
One Washington Mall  
Boston, MA 02108

Robert H. Gaynor, Esquire  
Sloane & Walsh, LLP  
Three Center Plaza  
Boston, MA 02108

---

Patrick M. McCormack  
B.B.O. No. 546194  
Law Offices of Jacqueline L. Allen  
One Liberty Square, 12<sup>th</sup> Floor  
Boston, MA 02109  
617-878-4614